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Greenwald Family Limited Partnership v. Village of Mukwonago

Supreme Court of Wisconsin - June 21, 2023 - N.W.2d - 2023 WI 53 - 2023 WL 4140327

Taxpayer brought challenge to village's special assessment against taxpayer's property in a newly created special-assessment district.

The Circuit Court granted village's motion to dismiss. Taxpayer appealed. The Court of Appeals affirmed in a summary disposition order. Taxpayer petitioned for review.

The Supreme Court held that:

- Taxpayer's service on village attorney did not constitute serving village clerk with required written notice of appeal of the special assessment, and
- Village attorney's admission of service of summons and complaint did not preclude taxpayer from having to comply with statutory requirement to serve village clerk with written notice of appeal.

Taxpayer's service on village attorney did not constitute serving village clerk with required written notice of appeal of village's special assessment against taxpayer's property in newly created special-assessment district; clerk was not "party" to appeal, and statute governing appeals from special assessments unambiguously required service of notice of appeal upon clerk, which meant that something had to be presented or delivered to clerk.

Village attorney's admission of service of summons and complaint did not preclude taxpayer from having to comply with statutory requirement to serve village clerk with written notice of appeal from special assessment; taxpayer's attorney had asked village attorney if he would accept service for village, village attorney accepted service of summons and complaint on behalf of village only, and village attorney never told taxpayer's attorney that he was accepting such service on behalf of village clerk as well.

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